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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,168	06/18/2001	Alan Drimmer	10257/13	3146

757 7590 01/26/2004

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CHICAGO, IL 60611

EXAMINER

HARRIS, CHANDA L

ART UNIT	PAPER NUMBER
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3714

14

DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/884,168

Applicant(s)

DRIMMER, ALAN

Examiner

Chanda L. Harris

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

In response to the Amendment filed on 10/27/03, Claims 1-10 and 17-25 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 8-10, and 17-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Layng et al. (US 6,523,007). The rejection from the last office action is maintained and is incorporated herein by reference.

1. [Claims 1,17]: Regarding Claims 1 and 17, Layng discloses classifying student performance into discrete performance classifications associated with corresponding activities (i.e. number of correct clicks); establishing a benchmark performance level for each of the performance classifications (i.e. threshold number of correct clicks); measuring an observed student performance level for at least one of the performance classifications (i.e. tracking the number of correct clicks). See Col.11: 7-10. Layng discloses determining whether the observed student performance level is compliant with

the established benchmark performance level for the at least one performance classification. See Col.11: 65-Col.12: 7. Layng discloses identifying an instructive feedback (i.e. correction subroutine, e.g. re-present the correct element to the child so that the child can identify it the next time it is requested in a row) for the individual based upon any material deviation of the observed student performance level from the benchmark performance level and an identity of the at least one performance classification of deficient student performance (i.e. two (or any number n) of consecutive incorrect clicks or “misses”). Layng further discloses the use of feedback (i.e. feedback that something incorrect was clicked by the child) based on the identity of at least one performance classification of deficient student performance. See Col.10: 48-51 and Col.11: 54-59. Layng discloses a monitor (i.e. counter). See Col.11: 9-10, 31-33.

2. [Claims 2,18,25]: Regarding Claims 2,18, and 25, Layng discloses wherein the discrete performance classifications comprises at least one of or a plurality of assignments, problem, self-assessment tests, scenarios (i.e. episodes), course content overviews, subject summaries, student communications, course participation, guided problems, presentations, multimedia presentations, audio presentations, and visual presentations (i.e. redisplay or otherwise re-present the correct element). See Col.6: 17-Col.9:25 and Col.11: 49-52.

3. [Claims 3, 19]: Regarding Claims 3 and 19, Layng discloses wherein the measuring includes tracking a number of clicks of a pointing device associated with a particular student terminal in the discrete performance classifications. See Col.11: 7-10.

4. [Claims 4,20]: Regarding Claims 4 and 20, Layng discloses wherein the benchmark performance level for each performance classification represents a range of student clicks, bounded by a minimum acceptable number of clicks (i.e. 0) and a maximum acceptable number of clicks (e.g. 12 clicks or other threshold). See Col.11: 31-33 and Col.12: 1-5.

5. [Claims 8,21-22]: Regarding Claims 8 and 21-22, Layng discloses wherein the determining detects that a particular student has successfully completed a self-assessment test or task and wherein the instructive feedback comprises congratulating the particular student on completing the self-assessment test or task (i.e. playing a reward (such as an animation) or positive feedback) to the child. See Col.11: 43-44 and Col.12: 1-4.

6. [Claims 9,23]: Regarding Claims 9 and 23, Layng discloses wherein the instructive feedback comprises a corrective action (i.e. correction subroutine) to improve an identified deficiency of the student in the electronic course. See Col.11: 54-59.

7. [Claims 10,24]: Regarding Claims 10 and 24, Layng discloses maintaining a database containing student identifiers, observed performance levels associated with the student identifiers, performance classification identifiers associated with the student identifiers, and benchmark performance levels associated with the student identifiers, and benchmark performance levels (e.g. exit criteria) associated with at least one corresponding electronic course. See Col.19: 18-35. Student identifiers would have been an inherent feature of the database in Layng's invention.

Allowable Subject Matter

Claims 5-7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 10/27/03 have been fully considered but they are not persuasive, particularly regarding the *identity of the at least one performance classification of deficient student performance* and the *identity of the at least one performance classification of deficient student performance*. See rejection above. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

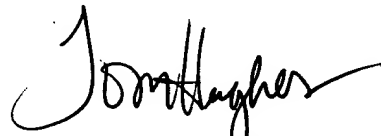
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 703-308-8358. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

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S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700